

**Notice of Allowability**

Application No.

09/670,046

Examiner

Martin Lerner

Applicant(s)

PICKERING, JOHN BRIAN

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 29 July 2004.
2. ☒ The allowed claim(s) is/are 1, 3 to 14, 16 to 27, 29 to 39.
3. ☒ The drawings filed on 03 August 2004 and 25 September 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Independent claims 1, 14, and 27 are allowable because the prior art of record does not disclose or reasonably suggest estimating a caller type based on a caller's level of competence, and then making a dialog decision determining a type of response to provide to a caller. Applicant's arguments are persuasive. *Kanevsky et al.* discloses detection of users who have problems with an automated system (column 7, lines 50 to 54), which is based upon their competence for using an IVR system, whereupon the user is transferred to an operator. Thus, *Kanevsky et al.* does not meet the limitation of "making a dialog decision" for "determining a type of automatic response to provide to the caller" based upon a user's competence with an IVR system, because a decision to transfer a call to a human operator cannot reasonably be construed as a dialog decision for a type of automatic response. Moreover, *Kanevsky et al.*, the closest prior art of record, is commonly assigned to current assignee, IBM, and qualifies as prior art only under 35 U.S.C. §102(e), and, thus, does not qualify as prior art in a combination under 35 U.S.C. §103(c),

Independent claims 3, 4, 8, 9, 12, 16, 17, 21, 22, 25, 29, 30, 34, 35, and 38 are allowable because the prior art of record does not disclose or reasonably suggest

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estimating a caller type based on the number of words of a particular type within a text, wherein a caller type is based on a word ratio, a word type counter, number of words spoken per second, or expert and novice prompts, and using the caller type to make a dialog decision. At best, *Kanevsky et al.* makes a dialog decision based upon a determination of particular words, e.g. "pop" or "soda", and "grocery sack" or "grocery bag" (column 4, lines 31 to 51), but not does calculate word ratios, use a word type counter, measure the number of words spoken per second, or provide expert and novice prompts.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Lerner whose telephone number is (571) 272-7608. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

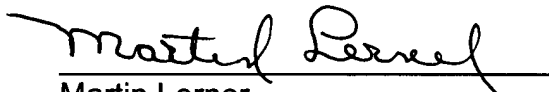
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML  
3/30/05

A handwritten signature in black ink, appearing to read "Martin Lerner", written over a horizontal line.

Martin Lerner  
Examiner  
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